

No.

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NO. _____

**IN THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT
NEW ORLEANS, LOUISIANA**

UNITED STATES OF AMERICA, Appellant

versus

FORREST B. JACKSON, Appellee

**ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FROM THE SOUTHERN DISTRICT OF
MISSISSIPPI—JACKSON DIVISION**

MEMORANDA FOR THE CLERK
IN THE UNITED STATES
DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

No. 2169—CRIMINAL

UNITED STATES OF AMERICA

vs.

FORREST B. JACKSON

HONORABLE JOSEPH E. BROWN, United States
Attorney, Federal Building, Jackson, Mis-
issippi,

ATTORNEY FOR APPELLANT

CAMERON & CAMERON, Attorneys at Law, Three-
foot Building, Meridian, Mississippi,

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issippi,

HONORABLE WILL S. WELLS, Attorney at Law,
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issippi,

HONORABLE FRED C. BERGER, Attorney at Law,
Natchez, Mississippi,
ATTORNEYS FOR APPELLEE

**IN THE UNITED STATES
COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 14091

UNITED STATES OF AMERICA, Appellant

v.

FORREST B. JACKSON, Appellee

STIPULATION AS TO PRINTING OF RECORD

Subject to the approval of the court, it is hereby stipulated and agreed by and between counsel for the parties that only the following portions of the record on appeal received from the Clerk of the District Court need be printed, supplemented by this agreement:

1. The indictment.
2. The motion to dismiss, without exhibits.
3. It is agreed that the typewritten record certified by the Clerk of the District Court constitutes the record on appeal and shall be considered by the court to the same extent as if it were printed; and that any party may print, as a part of or in connection with its or his brief, any portion of said typewritten record or may comment upon or otherwise use said typewritten record to the same extent as if it were printed.
4. This stipulation.
5. The opinion of the District Court sustaining the motion to dismiss, the order of the District Court dismissing the indictment and the notice of appeal and filing thereof are identical with the same items in cause No. 14087 which portions of the record in said cause are adopted as a part of the record in this case.

/s/ Joseph E. Brown
United States Attorney
Southern District of Mississippi
Attorney for Appellant
/s/ Ben F. Cameron
Attorney for Appellee

**IN THE UNITED STATES
DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

No. 2169—CRIMINAL

UNITED STATES OF AMERICA

vs.

FORREST B. JACKSON

I N D I C T M E N T

(FILED JULY 19, 1951)

COUNT I

THE GRAND JURY CHARGES:

1. That on or about the 9th day of April, 1951, at Jackson, and within the JACKSON Division of the Southern District of Mississippi,

FORREST B. JACKSON,

the defendant herein, having duly taken an oath before a competent tribunal, to wit: a subcommittee of the Senate Committee on Expenditures in the Executive Departments known as the Investigations Subcommittee, a duly created and authorized subcommittee of the United States Senate conducting official hearings in the Southern District of Mississippi, and inquiring in a matter then and there pending before the said subcommittee in which a law of the United States authorizes that an oath be administered that he would testify truly, did unlawfully, knowingly and wilfully, and contrary to said oath, state a material matter which he did not believe to be true, that it to say:

2. That at the time and place aforesaid, the said Senate Subcommittee inquiring as aforesaid was conducting a study and investigation of whether applicants for appointments to offices and places under the government of the United States had been and were being solicited and required by numerous persons within the State of Mississippi to make political contributions and donations as a condition precedent to receiving such appointments, and as a consideration in return for promises to use their support and influence in obtaining said offices and places for applicants seeking appointment thereto; and to determine whether the laws of the United States had been violated in connection with such activities, the identity of any such persons engaged therein, and the extent to which such improper and corrupt activities influenced and affected the operation of Agencies and Departments of the United States.

3. That at the time and place aforesaid, the defendant,

FORREST B. JACKSON,

duly appeared as a witness before the Senate Subcommittee and then and there being under oath as aforesaid, testified falsely before said Subcommittee with respect to the aforesaid material matter as follows:

SENATOR HOEY: Did you have anything to do, Mr. Jackson, at any time with counseling anybody with reference to making a payment in exchange for which they would receive endorsements from any members of the committee for appointment to any office?

MR. JACKSON: I did not.

4. That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that he did counsel and advise applicants for appointment to the office of rural mail carrier with reference to their making a payment and contribution in exchange for which they would receive endorsements from members of the Mississippi Democratic Committee. (Sec. 1621, Title 18, United States Code)

COUNT II**THE GRAND JURY FURTHER CHARGES:**

1. That at the time and place aforesaid, as is more fully set forth in Paragraphs 1 and 2 of the first Count, the allegations of which are hereby incorporated herein, the defendant,

FORREST B. JACKSON,

duly appearing as a witness before the said Senate Subcommittee and being under oath as aforesaid, testified falsely before the Senate Subcommittee with respect to the aforesaid material matter as follows:

SENATOR HOEY: Did you advise any of these applicants for office that it would be to their advantage to make a contribution, either to the dinners or to any representative of the party?

MR. JACKSON: I have no recollection of making any such statement, or giving any such advice to anyone who was an applicant for a position under appointment by the Federal Government.

2. That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that he did advise with applicants for a position under appointment by the Federal Government that it would be to their advantage to make a contribution to some representative of the Party. (Sec. 1621, Title 18, U. S. C.)

COUNT III**THE GRAND JURY FURTHER CHARGES:**

1. That at the time and place aforesaid, as is more fully set forth in Paragraphs 1 and 2 of the first Count, the allegations of which are hereby incorporated herein, the defendant

FORREST B. JACKSON,

duly appearing as a witness before the said Senate Subcommittee and being under oath as aforesaid, testified

falsely before the Senate Subcommittee with respect to the aforesaid material matter as follows:

SENATOR HOEY: Well now, was there any time that you had any discussion with any applicant for a position in which you advised him that as a consideration for getting the endorsement of the committee to make a contribution?

MR. JACKSON: No, sir, there was none, within my recollection.

2. That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that he did have a discussion with an applicant for a position in which discussion he advised the applicant that as a consideration for getting the endorsement of the Mississippi Democratic Committee the applicant should make a contribution. (Sec. 1621, Title 18, U. S. C.)

A TRUE BILL,

/s/ D. F. McCormick

Foreman of the Grand Jury

/s/ Joseph E. Brown
JOSEPH E. BROWN,
United States Attorney

/s/ Ben Brooks
BEN BROOKS,
Special Assistant to the
Attorney General

(TITLE OMITTED)

MOTION TO DISMISS

(FILED SEPTEMBER 5, 1951)

Now come the defendant, Forrest B. Jackson, and moves the court to dismiss the above indictment returned and pending against him, and for grounds states:

FIRST

The said indictment fails to state an offense under Section 1621 of Title 18 of the United States Code, or under any other laws of the United States.

SECOND

The said indictment does not allege the essential elements of the crime of perjury, and does not allege essential and sufficient facts to support a verdict of guilty, and does not allege elements of the offense sufficiently to advise defendant in his defense.

THIRD

The Senate inquisitorial committee before whom the alleged false answers are alleged to have been given was not a competent tribunal.

(a) The said committee was making an investigation of offenses under Section 215 of Title 18, United States Code, which act is contrary to the Constitution of the United States and not within the legislative powers of Congress and of no force and effect.

(b) Neither the Congress of the United States nor any committee of either House thereof has authority to make an investigation to determine whether the laws of the United States have been violated, as alleged in the indictment.

(c) Congress or its committees have no power under the Constitution to make an investigation of or examine private citizens of the United States to determine whether they have violated any law of the United States.

(d) The enforcement of the laws of the United States is expressly vested by the Constitution in the Executive Department, and all hearings to determine whether the laws of the United States have been violated are vested in the Judicial Department and its Juries.

(e) The questions directed to the defendant as alleged in the indictment were questions calling for answers of confessions of guilt to violations of said Section 215 and of the bribery laws of the United States, or denials of guilt, as he answered, and that the mere question of guilt or innocence of the defendant of violations of the said bribery laws of the United States were not material to any investi-

gation that the said committee was authorized to make or that it had the power to make.

FOURTH

The three questions set out in the indictment and the alleged false answers show on the face of the indictment that they are questions calling for pleas of guilty and are not material to any alleged authorized investigation, and that whether the defendant answered that he was guilty or not guilty of violation of Section 215 or any other Section of Title 18 or criminal law of the United States was not material to any Congressional investigation; and that under his Constitutional rights to plead not guilty to any criminal charge under any law charging an offense or before any inquisitorial body, person or grand jury, the plea of either guilty or not guilty is not material to any possible hearing that could be made or held by such tribunal.

FIFTH

The answers given to questions in counts Two and Three are not statements of facts but statements of recollections based on memory and, as such, cannot be used as basis for perjury charge.

SIXTH

The questions propounded by the Committee and as set out in the indictment were charges of violation under Section 215 of Title 18, United States Code and the answers were denials of guilt and true in law.

SEVENTH

The questions set forth in the indictment and the answers alleged to be false are lifted from all the questions propounded by the said Senate Committee and the answers of the defendant, and from their context. All the questions to the defendant and his answers thereto show that all answers were full and responsive with full and complete disclosures as to all questions for facts, and were not false. No facts were concealed from the said Committee and no statement of fact is alleged to be false. The questions lifted

from the hearing were questions calling for an opinion of guilt or innocence based on disclosed facts by the defendant and the defendant's answer denying guilt were not false statements and were not wilfully false, and the said answers did not conceal, willfully or otherwise, any fact from the Committee. All of which is shown by the questions of the Committee and the answers of the defendant, and questions and answers are requested to be made a part of this motion by exhibit or by bill of particulars.

EIGHTH

The alleged false answers set out in the indictment herein were given in an investigation being held by the Senate Committee to determine whether the bribery laws of the United States had been violated, all as alleged in the indictment. The answers denying guilt of violation of the bribery laws of the United States were answers specifically denying guilt of violation of Section 215, the Section covered in the questions propounded to the defendant. The defendant has now been indicted under Section 215 of Title 18, and Conspiracy to violate said section, with the indictment pending in this court in cause number 2164, returned by the same grand jury. The two indictments are based upon the same facts with proof by the same witnesses. The defendant is indicted under Number 2164 herein for violation of the Bribery laws of the United States, Section 215, and Conspiracy to violate said law, and in this indictment with perjury for denying his guilt of said crimes; that he cannot twice be put to trial for the same offense; that he cannot be put to trial for committing an offense against the United States and at the same time be held under indictment and put to trial for perjury for denying his guilt thereunder; that Section 215 of Title 18 of United States Code is a misdemeanor and the Congress of the United States has expressly limited the penalty that may be imposed under said section to a fine of not more than \$1,000 or imprisonment for one year, or both, while violation of Section 1621 is a felony in which Congress has provided that the penalty may be a fine of \$2,000 and imprisonment for five years. In addition conviction on perjury carries

penalties not set out in said section. The defendant is subject to trial only under Section 215 or conspiracy to violate said section, and cannot be tried for felony on ground that his denial of guilt to misdemeanor is a felony.

/s/ Cameron & Cameron

/s/ Young & Daniel

/s/ Fred C. Berger

/s/ Will S. Wells

ATTY. FOR DEFT.: FORREST B. JACKSON

By /s/ Will S. Wells, of Counsel

(TITLE OMITTED)

ORDER

(FILED FEBRUARY 11, 1952)

This cause this day came on for hearing on the motion to dismiss in the above numbered and entitled cause, and the Court having heard and considered same fully, it is considered and so

Ordered,

that the motion to dismiss in the above numbered and entitled cause be and the same hereby is sustained.

ORDERED this 6th day of February, 1952.

/s/ Allen Cox

UNITED STATES DISTRICT JUDGE

ENTERED: COB 5—P 977

C E R T I F I C A T E

I, B. L. TODD, JR., CLERK of the United States District Court for the Southern District of Mississippi, do hereby certify that the foregoing pages contain a true and correct transcript of the record in the case of **UNITED STATES OF AMERICA V. FORREST B. JACKSON, CRIMINAL ACTION NO. 2169**, now on appeal to the Court of Appeals at New Orleans, Louisiana, Fifth Circuit, as the same now remains of record in my office at Jackson, Mississippi.

This the 29th day of April, 1952.

/s/ B. L. Todd, Jr.

B. L. TODD, JR., CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

That thereafter the following proceedings were had in said cause in the United States Court of Appeals for the Fifth Circuit, viz.:

Argument and Submission.

Extract from the Minutes of December 8, 1952.

UNITED STATES OF AMERICA,

No. 14091

versus

FORREST B. JACKSON.

On this day this cause was called, and after argument by Ben Brooks, Esq., Special Assistant to the Attorney General, for appellant, and Ben F. Cameron, Esq., for appellee, was submitted to the Court.

Judgment.

Extract from the Minutes of April 10, 1953.

UNITED STATES OF AMERICA,

No. 14091

versus

FORREST B. JACKSON.

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Mississippi, and was argued by counsel;

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed.

"Rives, Circuit Judge, dissents."

Clerk's Certificate.

UNITED STATES OF AMERICA.

UNITED STATES COURT OF APPEALS,

FIFTH CIRCUIT.

I, Oakley F. Dodd, Clerk of the United States Court of Appeals for the Fifth Circuit, do hereby certify that the pages numbered from 14 to 28, next preceding this certificate contain full, true and complete copies of the pleadings, record entries and proceedings, including the opinion of the United States Court of Appeals for the Fifth Circuit, in a certain cause in said Court, numbered 14091,

wherein UNITED STATES OF AMERICA is appellant, and FORREST B. JACKSON is appellee, as full, true and complete as the originals of the same now remain in my office.

I further certify that the pages of the printed record, numbered from 1 to 13 are identical with the printed record upon which said cause was heard and decided in the said Court of Appeals.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said United States Court of Appeals at my office in the City of New Orleans, Louisiana, in the Fifth Circuit, this 21st day of April, A. D. 1953.

/s/ OAKLEY F. DODD,
Clerk, U. S. Court of Appeals,
Fifth Circuit.

SEAL

Supreme Court of the United States

No. 769, October Term, 1952

UNITED STATES OF AMERICA, PETITIONER

v.

FORREST B. JACKSON

Order allowing certiorari

Filed June 15, 1953

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted, and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.